IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22265 of 2004

Between:

C.Pullamma W/o.Kannaiah
Fair Price Shop dealer, R/o. Rajaka Veedhi
Tadipathri Village and Mandal Ananthapur District.

..... PETITIONER

AND

1 The Joint Collector, Ananthapur District.
2 The Revenue Divisional Officer, Ananthapur
3 The Mandal Revenue Officer, Thadipathri Mandal
Ananthapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction, preferable to the nature of writ of Mandamus declaring the action of the 2nd respondent in suspending the petitioners authorization for the Fair price shop dealer of Tadipatri Village and Mandal Ananthapur District by issuing impugned show cause Notice Cum Suspension order in Rc.D1/CS/1561/2004, dt.25.10.2004 on flimsy and untenable grounds only yielding to the Political pressures and further action of the 1st respondent in rejecting the stay petition in the appealed filed by the petitioner Vide Proceedings No.K4/ATP/1356/2004 dt.23.11.2004 as illegal, arbitrary and violation of Article 14, 19,21 of constitution of India and consequently set aside the above stated impugned proceedings with a further direction to the respondents to continue the petitioner as Fair Price Shop dealer of Tadipatri Village and Mandal, Ananthapur District.

Counsel for the Petitioner:MR.MURTHY G.N.

Counsel for the Respondents 1 to 3: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

The authorization of the petitioner for Fair Price Shop of Tadipathri Village was suspended through a Show Cause Notice-cum-Suspension Order, dated 25.10.2004 by the 2nd respondent. Petitioner preferred an appeal before the 1st respondent together with an application for grant of stay. The 1st respondent dismissed the application for stay, through proceedings, dated 23.11.2004. Hence, this Writ Petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

In the recent past, this Court is virtually flooded with a litigation relating to the suspension of authorization of Fair Price Shop Dealers, particularly in the Districts of Prakasam, Kurnool and Anantapur. After going through the various proceedings in all the writ petitions, this Court has gained an impression that the appointing authorities, in these places, are guided mostly by factors, other than those, which are germane for the proper and effective functioning of the Fair Price Shops. In one after other instances frivolous and fictitious grounds are stated for suspending the authorization. Instances of stale and inconsequential lapses are cited. The result is that any amount of uncertainty is brought about, and the respective agencies, viz., the appellate or revision authorities or the High Court are flooded with litigation. A uniform pattern cuts across all these matters with few exceptions. While the orders of suspension are passed by making vague and inconsequential allegations, stay petitions are dismissed just by observing that the grounds pleaded are not satisfactory.

In the present case, the allegation against the petitioner is that she is not residing in the village; she has entrusted the maintenance of the Fair Price Shop to a benami person and she has not distributed kerosene oil properly, and thereby an inference was drawn that she diverted the stock to black market. It should not be forgotten that

the order of suspension happens to be a show cause notice also. The allegations of the nature, referred to above, cannot be dealt with effectively by any one, unless any instance is cited. If the authorization can be suspended on the basis of this type of allegations, the Revenue Divisional Officer or for that matter, the Mandal Revenue Officer, who too are responsible for proper distribution of the commodities, were liable to be suspended for such lapses. The reason is that they are supposed to release the stocks only on being satisfied that the commodities released in the preceding month were distributed properly. The respondents 2 and 3 cannot take advantage of their own lapse. It indirectly suggests that they are either trying to find a scape goat for their lapses or resorting to indiscriminate suspensions.

The 1st respondent who was supposed to consider the matter dispassionately, rejected the stay application only by making an observation that 'there are no considerable grounds'. There was absolutely no application of mind to the facts of the case.

Hence, the writ petition is allowed directing that the suspension of the dealership of the petitioner shall stand stayed, pending disposal of the appeal by the 1st respondent. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 03rd December, 2004

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To

1 The Joint Collector, Ananthapur District.
2 The Revenue Divisional Officer, Ananthapur
3 The Mandal Revenue Officer, Thadipathri Mandal
Ananthapur District.

4. 2 CCs to the G.P. for Civil Supplies, High Court of A.P.,

Hyderabad (OUT)

5. 2 CD copies.

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